

## REMARKS

Restriction to claims 1-8 for prosecution in this application is noted. Claims 9-38 are being retained in this application, unexamined, pending allowance of a generic or linking claim.

Objections to the drawings are noted. Applicant is submitting herewith a Letter to the Chief Draftsperson which is believed to contain sufficient instructions for overcoming the bases for objection to the informal drawings as originally filed in this application. The formal drawings filed herewith add no new matter and are submitted to illustrate the claimed subject matter including the questioned protrusion, region of diminished shear strength, contiguously wound segments, successive convolutes, and the helically-wound strands, as those claimed aspects of the invention are amended herein.

The drawings have also been objected to for seemingly duplicate legend numbers to illustrate a described component, or for seemingly inconsistent use of a legend number to designate different described components, or for missing or extraneous legend numbers in Figure 8, and the like.

Applicant submits that these bases for objections to the drawings are obviated by the formal drawings filed herewith, and that these formal drawings now comply with the provisions of 37 C.F.R. §1.84.

Applicant has also amended the specification at paragraphs [0014] through [0016] and [0019] without adding new matter merely to clearly correlate the

questioned terms “shunt” and “conduit” as synonymous terms under the same legend number 9, and to identify the questioned “contiguous convolutes” as illustrated in the drawings under the new legend number 16, and to correct legend names, numbering and spelling errors. It is respectfully submitted that these amendments to the specification align with the drawings, specification, and claims as originally filed, and now also support the bases for withdrawing objections to the drawings.

Claims 3 and 4 have been rejected under 35 U.S.C. §112, ¶2 for lack of sufficient antecedent bases for recited terms. These claims have been amended in consideration of the Examiner’s comments to define the invention more specifically. As amended, these claims are now submitted to define the invention with sufficient particularity and distinctiveness to be patentable to Applicant.

Claims 1-3 and 5-8 have been rejected under 35 U.S.C. §102(b) as being anticipated by Borst et al EP ‘475. This rejection is respectfully traversed with respect to these claims as amended herein.

Specifically, these claims as amended now recite “the tubular conduit including a region of diminished shear strength extending along a continuous path on the tubular conduit from the protrusion to each of the spaced ends thereof for selectively disassembling the tubular conduit along the continuous path in response to tension applied to the protrusion.” In addition, the dependent claims are further limited by various recitations of “a strand of material forming the protrusion and a

plurality of contiguous convolutes disposed along the tubular conduit between the spaced ends thereof,” or “thermoplastic adhesion between contiguous edges of adjacent convolutes of the strand disposed in a helical pattern forming the tubular conduit,” or “a removal tube overlaying the protrusion … to facilitate exertion of tensile force on the protrusion relative to the removal tube in position against the tubular conduit for disassembling the tubular conduit along the continuous path,” or “the tubular conduit is formed of flexible resilient material and includes a generally cylindrical cross section between the spaced ends, and the protrusion is integrally formed therewith,” or the region of diminished shear strength variously extends from the protrusion to the spaced ends.

These aspects of the claimed invention are not disclosed by Borst et al EP ‘475 which is understood to rely upon a continuous sheet to form a seal within a vessel, where such sheet has no region of diminished shear strength along a continuous path for disassembling the sheet into a continuous strand, in a manner as claimed by Applicant. At best, this reference uses a sheet (or inflatable sealed sheets) to form a vessel seal that is removed intact as a sheet, with no hint or suggestion of disassembling the sheet (furling or rolling the sheet for removal [or insertion] does not disassemble the sheet that forms the seal). In addition, there are no adjacent convolutes of a strand wound in a helical pattern that forms the tubular conduit, in a manner as claimed by Applicant. It is therefore respectfully

submitted that claims 1-3 and 5-8 as amended herein are not anticipated by, but instead are patentably distinguishable over, Borst et al EP '475.

Claim 4 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Borst et al EP '475. This rejection is respectfully traversed.

This dependent claim, which has been amended merely to clarify antecedent basis for a recited component, specifically recites a bioinert material that forms thermoplastic adhesion between contiguous edges of the adjacent convolutes defined in a preceding claim.

There is no showing or suggestion of such defined structure contained in the cited reference in addition to the admitted deficient disclosure of this reference regarding polyvinyl chloride. Thus, postulating that other non-biodegradable materials used for making balloon catheters, as discussed in this reference, might also be suitable for use in place of the claimed material nevertheless fails to establish a *prima facie* basis, including all the structural elements of adhesion between adjacent convolutes of a strand disposed in a helical pattern, from which a proper determination of obviousness can be made. It is therefore respectfully submitted that dependent claim 4 is now patentably distinguishable over the cited art.

Reconsideration and allowance of the elected claims are solicited.

Respectfully submitted,  
ALBERT K. CHIN

Dated: 3/15/05

By: A-C. Smith

Albert C. Smith  
Reg. No. 20,355  
Fenwick & West LLP  
801 California Street  
Mountain View, CA 94306  
Phone: (650) 335-7296  
Fax: (650) 938-5200

ATTACHMENT

Letter to the Chief Draftsperson